

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 47 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

CADILA CHEMICALS P.LTD.

Appearance:

MR MANISH R BHATT for Petitioner
SERVED BY DS for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.R.DAVE

Date of decision: 15/12/97

ORAL JUDGEMENT (Per R.K.Abichandani,J.)

The applicant has moved this application under
Section 256(2) of the Income Tax Act, 1961 proposing the
following two questions for the decision of this Court:

1. "Whether, the appellate Tribunal is right in law

and on facts in deleting the addition under Section 40A(5) of the Act in respect of premium paid for the purchase of deferred annuity policies in respect of two Managing Directors?"

2. "Whether, the Appellate Tribunal is right in distinguishing the decision of the Gujarat Steel Tube P.Ltd. (1994) 116 CTR 82?"

From the order made by the Tribunal on 8.4.96 rejecting the application which was made before it under Section 256(1) for referring the aforesaid two questions for the opinion of this Court, it transpires that earlier in the case of the assessee itself in respect of Assessment Years 1984-85 and 1985-86, the Tribunal has rejected such application for referring question No.1.

It is stated by the learned Counsel for the applicant that thereafter, Income Tax Applications Nos. 50 and 51 of 1994 was made by the applicant before this Court for referring similar questions, but those applications were rejected by this Court on 4th April, 1994. We do not find any valid reason for taking a different view of the matter. This application is therefore, rejected. Rule is discharged with no order as to costs.

*/Mohandas